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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 NELSON CHILIN,  
14 Plaintiff,

15 vs.

16 L&J REAL PROPERTY HOLDINGS,  
17 LLC; and DOES 1 to 10,  
18 Defendants.

19 **Case No.:**

20 COMPLAINT FOR INJUNCTIVE  
21 RELIEF AND DAMAGES FOR  
22 VIOLATION OF:

- 23 1. AMERICANS WITH DISABILITIES  
24 ACT, 42 U.S.C. §12131 et seq.;
- 25 2. CALIFORNIA'S UNRUH CIVIL  
26 RIGHTS ACT, CAL CIV. CODE §§ 51 -  
27 52 et seq.;
- 28 3. CALIFORNIA'S DISABLED  
PERSONS ACT, CAL CIV. CODE §54 et  
seq.
4. CALIFORNIA'S UNFAIR  
COMPETITION ACT, CAL BUS & PROF  
CODE § 17200, et seq.
5. NEGLIGENCE

Plaintiff NELSON CHILIN ("Plaintiff") complains of Defendants L&J REAL  
PROPERTY HOLDINGS, LLC; and DOES 1 to 10 ("Defendants") and alleges as  
follows:

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## **JURISDICTION AND VENUE**

1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

2. Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the same nucleus of operating facts, are also brought under California law, including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1, 54, 54., 54.3 and 55.

3. Venue is proper in this court pursuant to 28 USC §1391(b). The real property which is the subject of this action is located in this district, San Bernardino County, California, and Plaintiff's causes of actions arose in this district.

## PARTIES

4. Plaintiff is a California resident with a physical disability. Plaintiff is substantially limited in his ability to walk. Plaintiff is a paraplegic due to spinal cord injury and requires the use of a wheelchair at all times when traveling in public.

5. Defendants are, or were at the time of the incident, the real property owners, business operators, lessors and/or lessees of the real property for a restaurant (“Business”) located at or about 127 E. Highland Ave., San Bernardino, California.

6. The true names and capacities, whether individual, corporate, associate or otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of Court to amend this Complaint when the true names and capacities have been ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such fictitiously named Defendants are responsible in some manner, and therefore, liable to Plaintiff for the acts herein alleged.

7. Plaintiff is informed and believes, and thereon alleges that, at all relevant times, each of the Defendants was the agent, employee, or alter-ego of each of the other Defendants, and/or was acting in concert with each of the other Defendants, and in doing

1 the things alleged herein was acting with the knowledge and consent of the other  
2 Defendants and within the course and scope of such agency or employment relationship.

3 8. Whenever and wherever reference is made in this Complaint to any act or  
4 failure to act by a defendant or Defendants, such allegations and references shall also be  
5 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
6 and severally.

### 7 **FACTUAL ALLEGATIONS**

8 9. In or about March of 2023, Plaintiff visited the Business. The Business is a  
9 restaurant business establishment, which is open to the public, and is a place of public  
10 accommodation and affects commerce through its operation. Defendants provide parking  
11 spaces for customers.

12 10. While attempting to enter the Business during each visit, Plaintiff personally  
13 encountered a number of barriers that interfered with his ability to use and enjoy the  
14 goods, services, privileges, and accommodations offered at the Business. To the extent  
15 of Plaintiff's personal knowledge, the barriers at the Business included, but were not  
16 limited to, the following:

- 17 a. Defendants failed to comply with the federal and state standards for  
18 the parking space designated for persons with disabilities. Defendants  
19 failed to provide any parking space designated for persons with  
20 disabilities. If there was a parking space designated for persons with  
21 disabilities located in another nearby parcel of land, then it was placed  
22 too far away from the Business.
- 23 b. Defendants failed to comply with the federal and state standards for  
24 the parking space designated for persons with disabilities. Defendants  
25 failed to provide the parking space identification sign with the  
26 International Symbol of Accessibility.
- 27 c. Defendants failed to comply with the federal and state standards for  
28 the parking space designated for persons with disabilities. Defendants

1 failed to post required signage such as “Van Accessible,” “Minimum  
2 Fine \$250” and “Unauthorized Parking.”

3 d. Defendants failed to maintain the parking space designated for  
4 persons with disabilities to comply with the federal and state  
5 standards. Defendants failed to provide proper van accessible space  
6 designated for the persons with disabilities.

7 e. Defendants failed to maintain the parking space designated for  
8 persons with disabilities to comply with the federal and state  
9 standards. Defendants failed to paint the ground as required.

10 f. Defendants failed to maintain the parking space designated for  
11 persons with disabilities to comply with the federal and state  
12 standards. Defendants failed to mark the space with the International  
13 Symbol of Accessibility.

14 11. These barriers and conditions denied Plaintiff the full and equal access to the  
15 Business. Plaintiff wishes to patronize the Business. However, Plaintiff is deterred from  
16 visiting the Business because his knowledge of these violations prevents him from  
17 returning until the barriers are removed.

18 12. Based on the violations, Plaintiff alleges, on information and belief, that  
19 there are additional barriers to accessibility at the Business after further site inspection.  
20 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-  
21 Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

22 13. In addition, Plaintiff alleges, on information and belief, that Defendants  
23 knew that particular barriers render the Business inaccessible, violate state and federal  
24 law, and interfere with access for the physically disabled.

25 14. At all relevant times, Defendants had and still have control and dominion  
26 over the conditions at this location and had and still have the financial resources to  
27 remove these barriers without much difficulty or expenses to make the Business  
28 accessible to the physically disabled in compliance with ADDAG and Title 24

1 regulations. Defendants have not removed such barriers and have not modified the  
2 Business to conform to accessibility regulations.

3 **FIRST CAUSE OF ACTION**

4 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

5 15. Plaintiff incorporates by reference each of the allegations in all prior  
6 paragraphs in this complaint.

7 16. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
8 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
9 the goods, services, facilities, privileges, advantages, or accommodations of any place of  
10 public accommodation by any person who owns, leases, or leases to, or operates a place  
11 of public accommodation. *See* 42 U.S.C. § 12182(a).

12 17. Discrimination, *inter alia*, includes:

- 13 a. A failure to make reasonable modification in policies, practices, or  
14 procedures, when such modifications are necessary to afford such  
15 goods, services, facilities, privileges, advantages, or accommodations  
16 to individuals with disabilities, unless the entity can demonstrate that  
17 making such modifications would fundamentally alter the nature of  
18 such goods, services, facilities, privileges, advantages, or  
19 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 20 b. A failure to take such steps as may be necessary to ensure that no  
21 individual with a disability is excluded, denied services, segregated or  
22 otherwise treated differently than other individuals because of the  
23 absence of auxiliary aids and services, unless the entity can  
24 demonstrate that taking such steps would fundamentally alter the  
25 nature of the good, service, facility, privilege, advantage, or  
26 accommodation being offered or would result in an undue burden. 42  
27 U.S.C. § 12182(b)(2)(A)(iii).
- 28

- 1 c. A failure to remove architectural barriers, and communication barriers  
2 that are structural in nature, in existing facilities, and transportation  
3 barriers in existing vehicles and rail passenger cars used by an  
4 establishment for transporting individuals (not including barriers that  
5 can only be removed through the retrofitting of vehicles or rail  
6 passenger cars by the installation of a hydraulic or other lift), where  
7 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 8 d. A failure to make alterations in such a manner that, to the maximum  
9 extent feasible, the altered portions of the facility are readily  
10 accessible to and usable by individuals with disabilities, including  
11 individuals who use wheelchairs or to ensure that, to the maximum  
12 extent feasible, the path of travel to the altered area and the  
13 bathrooms, telephones, and drinking fountains serving the altered  
14 area, are readily accessible to and usable by individuals with  
15 disabilities where such alterations to the path or travel or the  
16 bathrooms, telephones, and drinking fountains serving the altered  
17 area are not disproportionate to the overall alterations in terms of cost  
18 and scope. 42 U.S.C. § 12183(a)(2).

19 18. Where parking spaces are provided, accessible parking spaces shall be  
20 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every  
21 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in  
22 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA  
23 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall  
24 be van parking space. 2010 ADA Standards § 208.2.4.

25 19. Under the ADA, the method and color of marking are to be addressed by  
26 State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California  
27 Building Code (“CBC”), the parking space identification signs shall include the  
28 International Symbol of Accessibility. Parking identification signs shall be reflectorized

1 with a minimum area of 70 square inches. Additional language or an additional sign  
2 below the International Symbol of Accessibility shall state "Minimum Fine \$250." A  
3 parking space identification sign shall be permanently posted immediately adjacent and  
4 visible from each parking space, shall be located with its centerline a maximum of 12  
5 inches from the centerline of the parking space and may be posted on a wall at the  
6 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

7 20. Moreover, an additional sign shall be posted either in a conspicuous place at  
8 each entrance to an off-street parking facility or immediately adjacent to on-site  
9 accessible parking and visible from each parking space. The additional sign shall not be  
10 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in  
11 letters with a minimum height of 1 inch the following: "Unauthorized vehicles parked in  
12 designated accessible spaces not displaying distinguishing placards or special license  
13 plates issued for persons with disabilities will be towed always at the owner's expense..."  
14 *See* CBC § 11B-502.8, *et seq.*

15 21. Here, Defendants failed to provide any parking space designated for persons  
16 with disabilities. If there was a parking space designated for persons with disabilities  
17 located in another nearby parcel of land, then it was placed too far away from the  
18 Business. Defendants also failed to provide the parking space identification sign with the  
19 International Symbol of Accessibility. In addition, Defendants failed to provide signs  
20 stating "Minimum Fine \$250" and "Van Accessible." Moreover, Defendants failed to  
21 provide the additional sign with the specific languages stating "Unauthorized vehicles  
22 parked in designated accessible spaces not displaying distinguishing placards or special  
23 license plates issued for persons with disabilities will be towed always at the owner's  
24 expense..."

25 22. For the parking spaces, access aisles shall be marked with a blue painted  
26 borderline around their perimeter. The area within the blue borderlines shall be marked  
27 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
28 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall



1 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
2 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
3 11B-502.3.3.

4 23. Here, Defendants failed to properly maintain the access aisles as there were  
5 no “NO PARKING” and no blue lines painted on the parking surface. Moreover,  
6 Defendants failed to provide the access aisle with the minimum width of 96 inches.

7 24. The surface of each accessible car and van space shall have surface  
8 identification complying with either of the following options: The outline of a profile  
9 view of a wheel chair with occupant in white on a blue background a minimum 36” wide  
10 by 36” high (914 mm x 914 mm). The centerline of the profile view shall be a maximum  
11 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the  
12 length of the parking space and its lower side or corner aligned with the end of the  
13 parking space length or by outlining or painting the parking space in blue and outlining  
14 on the ground in white or a suitable contrasting color a profile view of a wheel chair with  
15 occupant. *See* CBC § 11B-502.6.4, *et seq.*

16 25. Here, Defendants failed to paint the International Symbol of Accessibility on  
17 the surface as required.

18 26. A public accommodation shall maintain in operable working condition those  
19 features of facilities and equipment that are required to be readily accessible to and usable  
20 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a). By failing to  
21 maintain the facility to be readily accessible and usable by Plaintiff, Defendants are in  
22 violation of Plaintiff’s rights under the ADA and its related regulations.

23 27. The Business has denied and continues to deny full and equal access to  
24 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
25 discriminated against due to the lack of accessible facilities, and therefore, seeks  
26 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
27 by individuals with disabilities.

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**SECOND CAUSE OF ACTION**

**VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

28. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

29. California Civil Code § 51 states, “All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”

30. California Civil Code § 52 states, “Whoever denies, aids or incites a denial, or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

31. California Civil Code § 51(f) specifies, “a violation of the right of any individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.”

32. The actions and omissions of Defendants alleged herein constitute a denial of full and equal accommodation, advantages, facilities, privileges, or services by physically disabled persons within the meaning of California Civil Code §§ 51 and 52. Defendants have discriminated against Plaintiff in violation of California Civil Code §§ 51 and 52.

33. The violations of the Unruh Civil Rights Act caused Plaintiff to experience difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory damages as specified in California Civil Code §55.56(a)-(c).

**THIRD CAUSE OF ACTION**

**VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

34. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

35. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, loading places, places of public accommodations, amusement, or resort, and other places in which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

36. California Civil Code § 54.3(a) states, “Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages, and any amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 54, 54.1, and 54.2.

37. California Civil Code § 54(d) specifies, “a violation of the right of an individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also constitute a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

1        38. The actions and omissions of Defendants alleged herein constitute a denial  
2 of full and equal accommodation, advantages, and facilities by physically disabled  
3 persons within the meaning of California Civil Code § 54. Defendants have  
4 discriminated against Plaintiff in violation of California Civil Code § 54.

5        39. The violations of the California Disabled Persons Act caused Plaintiff to  
6 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
7 statutory damages as specified in California Civil Code §55.56(a)-(c).

8                                    **FOURTH CAUSE OF ACTION**

9                                    **UNFAIR COMPETITION ACT**

10        40. Plaintiff incorporates by reference each of the allegations in all prior  
11 paragraphs in this complaint.

12        41. Defendants have engaged in unfair competition, unfair or fraudulent  
13 business practices, and unfair, deceptive, untrue or misleading advertising in violation of  
14 the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

15        42. Defendants engage in business practices and policies that create systemic  
16 barriers to full and equal access for people with disability in violation of state and federal  
17 law.

18        43. The actions and omissions of Defendants are unfair and injurious to  
19 Plaintiff, a consumer of the Business' goods and services. As a result of Defendants'  
20 unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not  
21 provided with goods and services provided to other consumers. Plaintiff seeks relief  
22 necessary to prevent Defendants' continued unfair business practices and policies and  
23 restitution of any month that Defendants acquired by means of such unfair competition,  
24 including profits unfairly obtained.

25                                    **FIFTH CAUSE OF ACTION**

26                                    **NEGLIGENCE**

27        44. Plaintiff incorporates by reference each of the allegations in all prior  
28 paragraphs in this complaint.

1 45. Defendants have a general duty and a duty under the ADA, Unruh Civil  
2 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
3 to the Plaintiff.

4 46. Defendants breached their duty of care by violating the provisions of ADA,  
5 Unruh Civil Rights Act and California Disabled Persons Act.

6 47. As a direct and proximate result of Defendants' negligent conduct, Plaintiff  
7 has suffered damages.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff respectfully prays for relief and judgment against  
10 Defendants as follows:

11 1. For preliminary and permanent injunction directing Defendants to comply  
12 with the Americans with Disability Act and the Unruh Civil Rights Act;

13 2. Award of all appropriate damages, including but not limited to statutory  
14 damages, general damages and treble damages in amounts, according to proof;

15 3. Award of all reasonable restitution for Defendants' unfair competition  
16 practices;

17 4. Reasonable attorney's fees, litigation expenses, and costs of suit in this  
18 action;

19 5. Prejudgment interest pursuant to California Civil Code § 3291; and

20 6. Such other and further relief as the Court deems just and proper.

21 **DEMAND FOR TRIAL BY JURY**

22 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby  
23 demands a trial by jury on all issues so triable.

24  
25 Dated: May 18, 2023

SO. CAL. EQUAL ACCESS GROUP

26  
27 By: /s/ Jason J. Kim  
Jason J. Kim, Esq.  
28 Attorneys for Plaintiff